

Notice of Public Hearing

LSA Document #14-477

Notice of Public Hearing

Under [IC 4-22-2-24](#), notice is hereby given that on June 4, 2015, at 5:30 p.m., at the Fort Harrison State Park Inn, 5830 North Post Road, Roosevelt Ballroom, Indianapolis, Indiana the Natural Resources Commission will hold a public hearing on proposed amendments to [312 IAC 9-3-10](#) governing commercial deer processors, [312 IAC 9-5-9](#) governing the reptile captive breeding license, [312 IAC 9-10-4](#) governing the game breeder and exotic cervidae license, [312 IAC 9-10-9](#) governing wild animal rehabilitation permits, [312 IAC 9-10-11](#) governing the nuisance wild animal control permit, [312 IAC 9-10-15](#) governing the fish importation permit to remove bowfin and paddlefish from the list of species, and [312 IAC 9-10-16](#) governing the dog training ground permit. Adds [312 IAC 9-10-24](#) to establish a trapper education permit. Amends [312 IAC 9-11-2](#) governing the first permit to possess a wild animal to clarify requirements for new applicants.

[IC 4-22-2-24\(d\)\(3\)](#) Justification Statement: The Department of Natural Resources (DNR) is proposing amendments to the following rules: [312 IAC 9-3-10](#) governing commercial deer processors, [312 IAC 9-5-9](#) governing the reptile captive breeding license, [312 IAC 9-10-4](#) governing the game breeder and exotic cervidae license, [312 IAC 9-10-9](#) governing wild animal rehabilitation permits, [312 IAC 9-10-11](#) governing the nuisance wild animal control permit, [312 IAC 9-10-15](#) governing the fish importation permit, [312 IAC 9-10-16](#) governing the dog training ground permit, [312 IAC 9-10-24](#) to establish a trapper education permit, and [312 IAC 9-11-2](#) governing the wild animal possession permit to clarify requirements for applicants.

The changes in [312 IAC 9-3-10](#) ensure that commercial deer processors will properly dispose of deer carcasses and other parts. Currently, individuals need to register with the DNR each year if they are going to process deer for other people and charge a fee. Currently, there is no legal requirement for how the deer carcasses are disposed of, and local government entities and neighbors of these facilities have complained about the improper disposal of carcasses and smell from these places. The DNR has received numerous complaints regarding the disposal practices of deer processors. Many are not regulated or inspected by the health department or other agency and have no requirements for how they dispose of deer carcasses they handle. Additionally, the Board of Animal Health's rule in [345 IAC 1-3-31](#) allows people to move carcasses or parts of carcasses, including heads, spinal cords, and small intestines of cervidae taken in other states, to commercial deer processors that are registered by the DNR. However, the DNR currently has no requirements on proper disposal of those parts, only record keeping requirements relative to deer that are taken in to process. This can cause problems if a disease such as chronic wasting disease or bovine tuberculosis would show up in Indiana's wild deer herd.

The change to the reptile captive breeding license in [312 IAC 9-5-9](#) adds a requirement that the applicant be an Indiana resident, removes the requirement that a veterinarian examine the snake or snakes within 14 days of acquisition, and adds the pit tag number to the information required on the records. The DNR would be unable to examine the records and snakes as required in this rule if the person did not reside in Indiana. Also, there is not a need for the snakes to be examined by a veterinarian. Breeders do not have to submit the record of taking the snake to a veterinarian to the DNR. They only have to have the information on a departmental form. There is also no inspection requirement for the original license, and it is not enforceable as currently written. There is no cost for this permit, and these changes help reduce costs for permit holders to have the snake or snakes examined by a veterinarian.

The amendments to [312 IAC 9-10-4](#) governing the game breeder license provide consistency with identification and disease testing requirements already established in [345 IAC 2-7](#) under the Board of Animal Health (BOAH). The changes include allowing the fence height to be less than eight feet tall for exotic species of cervidae such as fallow deer that are not known to be able to jump over fences. Some species of exotic cervidae do not need eight-foot-tall fences to stay confined. BOAH already allows fences less than eight feet high for these species as long as the fence still contains the animals (properly maintained, etc.). This would match rule language in [345 IAC 2-7-3](#). Amendments also allow pheasants and quail and their eggs to be imported with either a certificate of veterinary inspection or National Poultry Improvement Plan (NPIP) certificate. This is consistent with BOAH's rule in [345 IAC 1-3-24](#). These inconsistencies are creating additional complications and confusion. The change for the NPIP certificate for the importation of pheasants and quail would match BOAH's importation requirements for poultry, which include these game birds. The requirement for a certificate of veterinary inspection creates an additional burden and cost to those who purchase birds from out-of-state, and the NPIP certificate demonstrates that the breeder is compliant with federal disease-testing requirements without creating an additional cost. There would be no additional costs to license holders as the result of these rule changes.

A number of changes are proposed for the wild animal rehabilitation permit in [312 IAC 9-10-9](#). First of all, those that have had a wild animal rehabilitation permit for 10 years or more and taken in at least 12 animals per

year will be exempt from the continuing education requirement. They are already exempt from the testing requirement in subsection (e). After the Indiana wildlife rehabilitator's organization disbanded in 2012, the options to meet this requirement narrowed. Remaining options are to attend a DNR-hosted course, take an online course, travel to a national meeting, or be part of a nonprofit organization/center that trains its own staff. Some of these options are expensive and/or time consuming. Rehabilitators provide their service at no charge, and the DNR does not believe the current requirement is necessary for the survival of the wild animal population. Wild animal rehabilitators provide a public service and answer many phone calls, pick up injured and orphaned wild animals, and educate the public about wild animals. The limits on the number of animals that can be released are also being eliminated in subsections (n) and (r) because wild animal rehabilitators should not be used to control populations. With a limited number of wildlife rehabilitators and increasing suburban development, wild animal rehabilitators should not be limited in regard to the number of wild animals they can accept and care for, as long as they have the proper facilities and ability to care for the animals adequately. Additional technical changes are made in subsections (o) and (y) to clarify transfers of wild animals taken in by wild animal rehabilitators. There will be additional options for animals that are nonreleasable to be able to be used for educational programs. The wild animal rehabilitation permit is free of charge, and these changes will benefit permit holders by reducing continuing education requirements and limitation on transfers of animals and numbers of animals that can be taken in for rehabilitation.

The change in [312 IAC 9-10-11](#) governing the nuisance wild animal control permit reduces the number of hours required for continuing education within a four-year period of time. The current requirement is 32 hours, and this reduces the hours to 16. This will save permit holders time and money by not having to spend time and gas to attend classes or send employees to classes.

The changes to [312 IAC 9-10-16](#) governing the dog training ground permit allow wild rabbits to be possessed and chased inside an enclosure for the purpose of training dogs. The Indiana General Assembly passed a bill during the 2014 legislative session that authorizes the DNR to allow the chasing of rabbits and other wild animals under a dog training ground permit; this allows dog owners to let their dogs chase rabbits within an enclosure without fear of their dogs crossing a road or going onto another person's property. Beagle clubs around the state have fenced-in areas in which club members train their dogs to chase, not kill, wild rabbits. A few clubs have very large enclosures in which they conduct field trials with dogs from around the country to compete in events. An individual or a club could be considered to be in possession of wild rabbits since they cannot "take, chase, or possess" wild rabbits except as authorized under this article ([IC 14-22-6-1](#)). This permit provides authorization to chase, not kill, the wild rabbit, and sets forth requirements to ensure that the enclosed area has enough space for the rabbits to run and escape to help ensure a fair chase. The provisions that limit the number of dogs and set forth requirements for food, water, at least 10 acres, and habitat suitable for rabbits to escape, may address concerns about animal cruelty. Furthermore, [IC 14-22-2-6\(b\)](#) requires the DNR to adopt rules that provide for the welfare of the wild animals, as well as the relationship of the wild animal to other animals. Dog training ground permits can still be used for ring-necked pheasants and bobwhite quail for training dogs.

The change in [312 IAC 9-10-15](#) governing the fish importation permit simply removes paddlefish from the list of species that can be imported without a permit from the DNR. Paddlefish are now entering the live fish market, including fish for stocking private waters and sale to fish markets. Concerns regarding genetic contamination of wild stock and loopholes related to movement of paddlefish and their roe are the basis for the change. [IC 14-22-13-2.5](#) requires a roe harvester's license to possess, harvest, or sell roe (eggs) of roe-bearing species such as paddlefish. In order to maintain consistency with [IC 14-22-13-2.5](#) and [IC 14-22-9-7](#) (sale of fish) and help ensure the legal importation and sale of paddlefish, the DNR would require an aquaculture permit to import, raise, and sell live paddlefish. The aquaculture permit is free of charge and is governed by [312 IAC 9-10-17](#).

The new rule in [312 IAC 9-10-24](#) that establishes the trapper education permit is needed to allow for the trapping of furbearing mammals outside the season for trapper education classes approved or sponsored by the DNR. DNR-sponsored trapper education classes can be more beneficial when students are allowed to actually set traps and release animals from those traps. In order to increase participation and provide education before the start of the trapping season, classes need to be conducted at a time other than during trapping season. This new permit would meet that need when a class is held outside regulated trapping seasons. Trapper education classes that do not include the setting of traps for wild animals will not require a permit from the DNR. A permit is required outside the season because a person cannot "take, chase, or possess" a wild animal except as authorized under this article ([IC 14-22-6-1](#)), and trapping is included in the definition of "take" in [IC 14-8-2-278](#).

The changes in [312 IAC 9-11-2](#) governing the wild animal possession permit clarify requirements for new applicants. The changes simply clarify that the wild animal must be lawfully acquired for a permit to be issued by the DNR. Each year, the DNR receives requests from individuals to obtain a permit for a wild animal that was not obtained legally. By making these amendments, the DNR is trying to clarify to applicants that the animal must be lawfully acquired for a permit to be issued by the DNR. Lawful acquisition includes the purchase of a wild animal from a licensed breeder with a receipt or other proof of acquisition, or under a wild animal rehabilitation permit if the animal was obtained as an orphaned or injured baby animal.

The DNR has the statutory authority to issue permits and licenses for the possession and taking of wild

animals in [IC 14-22-2-4](#). The DNR has the specific authority to issue the game breeder and exotic cervidae license in [IC 14-22-20](#) and [IC 14-22-20.5](#), the nuisance wild animal control permit in [IC 14-22-28](#), the fish importation permit in [IC 14-22-25](#), and the wild animal possession permit in [IC 14-22-26](#). The DNR is also required to develop rules that are based upon "(A) The welfare of the wild animal, (B) The relationship of the wild animal to other animals, and (C) The welfare of the people in [IC 14-22-2-6](#)." "Wild animal" is defined in [IC 14-8-2-318](#). "Animal" is defined in [IC 14-8-2-7](#) and includes mammals, birds, reptiles, amphibians, fish, and crustaceans. The Natural Resources Commission has the statutory authority to adopt rules pursuant to [IC 14-10-2-4](#).

The number of license and permit holders was obtained from the DNR Division of Fish and Wildlife's databases of license and permit holders.

The benefits and costs of the proposed changes were obtained from staff of the DNR Divisions of Law Enforcement and Fish and Wildlife.

Copies of these rules are now on file at the Indiana Government Center North, 100 North Senate Avenue, Room N501 and Legislative Services Agency, Indiana Government Center North, 100 North Senate Avenue, Room N201, Indianapolis, Indiana and are open for public inspection.

Bryan W. Poynter
Chairman
Natural Resources Commission

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